

E

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF PENNSYLVANIA

3 JENNIFER RAE GEORGE, an : Civil Action - Law
4 incapacitated person, by :
5 RAYMOND G. GEORGE and :
6 SUSAN M. GEORGE, Guardians, :
7 Plaintiffs :
8 :
9 :

10 v. : Case No. 04-77E
11 :
12 :

13 CITY OF ERIE, JOYCE :
14 SAVACCHIO, PAUL DEDIONISIO, :
15 RICHARD SZYCHOWSKI, DAVID :
16 VAN BUSKIRK, RICHARD :
17 CRAWFORD, PATRICK DURKIN, :
18 GREGORY T. DILORETO and :
19 JOHN DOE, :
20 Defendants :
21 :

22 Deposition of JOHN BENEDICT, taken before and
23 by Carol A. Holdnack, RPR, Notary Public in and for
24 the Commonwealth of Pennsylvania, on Tuesday,
25 November 9, 2004, commencing at 1:02 p.m., at the
offices of Marshall Dennehey Warner Coleman & Goggin,
Renaissance Centre, 1001 State Street, Suite 1400,
Erie, PA 16501.

For the Plaintiffs:
Alan Natalie, Esquire
504 State Street, Suite 300
Erie, PA 16501

For Defendant City of Erie:
Patrick M. Carey, Esquire
Marshall Dennehey Warner Coleman & Goggin
1001 State Street, Suite 1400
Erie, PA 16501

For Defendant Gregory T. DiLoreto:
David L. Haber, Esquire
Weinheimer Schadel & Haber
602 Law & Finance Building
429 Fourth Avenue
Pittsburgh, PA 15219

Reported by Carol A. Holdnack, RPR
Ferguson & Holdnack Reporting, Inc.

I N D E X

JOHN BENEDICT

Direct Examination by Mr. Carey 3

Cross-Examination by Mr. Natalie 12

1 J O H N B E N E D I C T, first having
2 been duly sworn, testified as follows:

3

4

DIRECT EXAMINATION

5 BY MR. CAREY:

6

7 Q. Would you please state your name.

8 A. John Benedict.

9 Q. Okay. You go by Jack?

10 A. Yeah, I go by Jack.

11 Q. My name is Pat Carey. We talked last week, and
12 then I scheduled your deposition today. Have you ever had
13 your deposition taken?

14 A. No.

15 Q. As I explained to you last week, it's merely a
16 questioning session where we ask you questions about
17 yourself and about information that you may have relative to
18 this case. And if you have answers, you can provide them to
19 us.

20 We do have a court reporter here taking everything
21 down. So I would ask that all of your responses be verbal.
22 In other words, don't say um-hum or hum-um, say yes or no,
23 and make all your responses out loud. You are under oath as
24 you would be if you testified in court. I just point that
25 out to you as well.

1 When we're done here, there will be a transcript
2 prepared of your testimony. And so, therefore, in order
3 that we get a good, clean transcript that we can read,
4 please make your responses verbal. Try not to answer my
5 question before I'm done asking it. And I'll try not to ask
6 the next question while you're still answering the previous
7 one. Okay?

8 A. Okay.

9 Q. If at any time -- this won't be long. But if at
10 any time you need a break, you let me know that too, and
11 we'll accommodate you.

12 A. Okay.

13 Q. Mr. Benedict, where do you work?

14 A. City of Erie streets department.

15 Q. How long have you worked there?

16 A. A little over 14 years.

17 Q. How old are you?

18 A. 38.

19 Q. How far did you go in school?

20 A. Graduated, 12th grade.

21 Q. What school?

22 A. East High.

23 Q. What year?

24 A. 1984.

25 Q. What do you do for the streets department?

1 A. Heavy equipment operator.

2 Q. I should have probably started off with this. But
3 as I told you last week, this case involves an automobile
4 accident that occurred at 14th and Parade Streets. Jennifer
5 George was involved in an accident with a City of Erie
6 police cruiser. And I represent the City of Erie in this
7 case. Jennifer, through her parents, has brought a lawsuit.
8 Do you know Jennifer George?

9 A. Yes, I do.

10 Q. How long have you known her?

11 A. She's my cousin.

12 Q. Okay. Do you know, is she a first cousin, second
13 cousin?

14 A. I would -- I'm not sure.

15 Q. Do you know her parents?

16 A. Yes.

17 Q. Did you grow up knowing Jennifer and her parents?
18 I mean, are you close?

19 A. I would see them a couple times a year. But other
20 than that, that would it be it, just a couple times a year.

21 Q. Do you know Greg DiLoreto?

22 A. No. I'm not sure if I know him or not. If I seen
23 his face, I might know him.

24 Q. He was a former City police officer. He was
25 involved in this accident. Does that help?

1 A. Well, yeah, I know that part. But, I mean, by
2 seeing him on the street, I don't know if I would be able to
3 tell you I know him, you know, unless I seen him.

4 Q. You might recognize his face, but you can't put a
5 face --

6 A. With the name.

7 Q. -- with a name right now?

8 A. Yeah.

9 Q. Up at the streets department, where is that
10 located, first of all?

11 A. 20th and French.

12 Q. Up at the streets department, do City of Erie
13 police officers ever go up there with their cruisers?

14 A. Yes. They get fuel, and use the bathroom, and get
15 air in the tires. Plus the garage is -- municipal garage is
16 across the street, for mechanical work.

17 Q. So the police cruisers are maintained at that
18 location?

19 A. As far as I know, yes.

20 Q. Is that the basis of why you may recognize his
21 face if you saw him, if somebody pointed out to you and
22 said, this is Greg DiLoreto, is that why you might know his
23 face, because he may have had the cruiser up at the streets
24 department?

25 A. It might be. I don't know him personally.

1 Q. Okay. You've been identified as -- through
2 discovery in this case, as someone who may know something
3 about Mr. DiLoreto's reputation with respect to driving.
4 Were you aware of that?

5 A. You're talking about what happened, like -- I know
6 that they -- from his reputation, what I heard, that they
7 would call him NASCAR. And he would do burnouts. And his
8 partners -- some of his partners didn't want to be with him.
9 I just heard that, from everybody talking.

10 Q. Can you identify anybody who told you that?

11 A. No. It could have been Duck. I'm not sure. I
12 don't want to say. I'm not sure. It's been like two years
13 ago.

14 Q. Okay. When you say Duck, who is that?

15 A. Or Don, Donald.

16 Q. Marofsky?

17 A. Marofsky, yes.

18 Q. And do you work with him?

19 A. Yes, I do.

20 Q. So you're saying that he may have been the one who
21 told you that?

22 A. He could have been. I heard it from other people
23 too, you know, if it wasn't from him. I can't remember
24 because it's been two years ago or so, or longer.

25 Q. Can you recall the identity of anybody else other

1 than Don Marofsky who may have told that you?

2 A. No. And I'm not even positive if Donny did. But
3 I'm just saying he could have, because I know he knows my
4 cousin. And me and him were talking about the accident
5 after it happened. But I couldn't tell you for sure if he
6 told me any of that stuff or not.

7 Q. Well, let's talk about this. How did you find out
8 about this accident?

9 A. I seen it on the news.

10 Q. And when you saw it on the news, did you know at
11 that time that it involved Jennifer?

12 A. Yes.

13 Q. Okay. Would you have heard about this within a
14 day or so of the accident?

15 A. Most likely, through family, I probably would
16 have.

17 Q. After you found out about this accident, did you
18 have any contact with Jennifer's parents?

19 A. I want to say it was around Eastertime when it
20 happened. April, I think, it might have been.

21 Q. Okay.

22 A. I was at fishing camp. So when -- the day it
23 happened, we were watching TV, and we seen it on the news
24 there. And I got back. I don't know if I got back Saturday
25 or Sunday after I heard about it. And then I went to the

1 hospital to see her. And I talked to her mom at the
2 hospital. That was it.

3 Q. Did her mother tell you how the accident happened?
4 Did she provide you with any information?

5 A. I can't be sure if she did or not. I mean, she
6 probably told me how it happened or whatever. But I'm not
7 positive. I'm -- she could have told me that the cop hit
8 her, you know, it was a cop that hit her, because I work for
9 the City. She might have told me that, but I'm not
10 positive.

11 Q. When you had that specific conversation with
12 Jennifer's mother, did you tell her at that time that this
13 police officer had a reputation, was called NASCAR, et
14 cetera, et cetera?

15 A. I can't be sure, because I don't know if I was
16 back to work before I talked to her, or if I went back to
17 work after I talked to her and heard about it. So I'm not
18 positive.

19 Q. Let me narrow this down a little bit. You told me
20 a minute ago -- and correct me if I mischaracterize this.
21 You told me a minute ago that you had heard from people, you
22 can't recall who, that DiLoreto had a nickname of NASCAR
23 and/or was known to do burnouts, et cetera, et cetera?

24 A. I heard that while I was at work.

25 Q. Did you hear that type of information before this

1 accident occurred or after this accident occurred?

2 A. After the accident.

3 Q. Okay.

4 A. I know that for sure. Because I don't really
5 think I knew the guy before that happened. And then once
6 everybody found out it was my cousin -- or it could have
7 happened before they found out it was my cousin. But it was
8 after the accident that I heard that they had nicknamed him
9 NASCAR and all the other stuff.

10 Q. Okay. You said a couple minutes ago too that you
11 heard that police officers did not want to ride with
12 DiLoreto.

13 A. Yes.

14 Q. Do you recall who may have told you that?

15 A. No. It's -- I don't know when -- at the time it
16 happened, everybody was talking about it. And I just
17 overheard them -- or they were telling me. I can't remember
18 who was saying it.

19 Q. Okay. So this is just scuttlebutt that you're
20 hearing up at the City streets department?

21 A. Most likely, yeah. They were just saying about
22 his reputation. I had no idea if it's true or not.

23 Q. Okay. As we sit here, are you able to tell me
24 whether you've ever seen Officer DiLoreto driving the
25 cruiser?

1 A. I'm not sure what he looks like, so I don't know
2 if I can -- I mean, if I seen him, I could probably tell you
3 yes or no. But to put his name with his face, I'm almost
4 positive I couldn't do it.

5 Q. Let me ask you this. Are you aware of whether or
6 not police officers are assigned to certain police vehicles,
7 in other words, Police Officer Smith is assigned to Alpha 1,
8 or anything like that?

9 A. I know they have different squads or platoons,
10 whatever you want to call it. And I'm not sure if they have
11 the same cars or not.

12 Q. Do you have any information about Officer DiLoreto
13 driving a particular car that helps you remember who this
14 particular officer is?

15 A. No. Because I don't know -- I'm almost positive I
16 don't know what he looks like, so.

17 Q. Did you -- and if I asked you this, I apologize, I
18 don't mean to ask things more than once. Did you ever tell
19 Jennifer's parents, either her mother or her father, about
20 what you heard about DiLoreto?

21 A. Yes, I think I did. I was telling -- I think I
22 told Susie.

23 Q. That would be Jennifer's mother?

24 A. Mother, yes. I was just telling her about the
25 reputation I heard. I said, I don't know if it's true or

1 not.

2 Q. Did you ever speak to any person who identified
3 themselves as an investigator hired by any of the attorneys
4 in this case?

5 A. No. Well, just you, the other day.

6 Q. Just last week.

7 A. Last week.

8 Q. Wednesday or whatever that was.

9 A. Yeah, Wednesday or Thursday.

10 Q. Have you ever talked to Attorney Natalie about
11 this case?

12 A. No.

13 MR. CAREY: I probably don't have any more
14 questions for you, but these other attorneys may.

15 MR. HABER: I don't have any questions.

16

17 CROSS-EXAMINATION

18 BY MR. NATALIE:

19

20 Q. Mr. Benedict, I'm Alan Natalie. I represent the
21 George family in this matter. Let me try to put in context
22 your hearing of Mr. DiLoreto's reputation. Was the
23 happening of the accident something that prompted people to,
24 in the police department and at the streets department, to
25 talk about DiLoreto's reputation?

1 MR. HABER: I'm going to object to the form of the
2 question. I don't think he's capable of answering
3 what prompted other people to do things.

4 Q. Well, was it the happening of the accident that
5 was part of discussions that led to the sharing of that
6 reputation information with you?

7 A. I know the time of the accident happening, being
8 that it was my cousin, I went over to the garage and looked
9 at the police car and the truck. And everybody there was
10 talking. And I said, yeah, that's my cousin. And after
11 that, I heard about being called NASCAR and was --
12 reputation of doing burnouts and all that.

13 Q. Was this information that people were sharing with
14 you, did that come from within police ranks?

15 A. No police officers were involved. It was just
16 blue collar workers. It was either from the streets
17 department or municipal garage, is where I was hearing it
18 from.

19 Q. But they related information to you, or shared
20 information with you, about officers refusing to ride with
21 him?

22 A. Yes, I heard that.

23 Q. You heard that?

24 A. Yes.

25 Q. And your understanding was that that came from

1 officers within the ranks?

2 A. You mean like coming from the police officers?

3 Q. Yes.

4 A. No, I didn't hear it from no police officer.

5 Q. I mean, how did these people that did share this
6 information with you come to hear this?

7 A. I guess just from working at the City. Like the
8 mechanics, they know all the cops because they work on the
9 cars. And guys in our department, streets department, they
10 pump their gas and do flat tires and that.

11 Q. But, I mean, the ultimate source of that
12 information would come from officers sharing their feelings
13 with those types of people?

14 A. I don't know.

15 Q. And then those people sharing --

16 A. I couldn't tell that you.

17 Q. All right. I guess what I'm trying to get at --

18 A. I don't know if they did or if officers told them
19 that or what. I have no idea.

20 Q. So these coworkers of yours in the streets
21 department and the municipal garage were telling you things
22 about what they heard about DiLoreto, things like burnouts.

23 A. Yes, that's where I heard it from, is the other
24 blue collar workers.

25 Q. His nickname being NASCAR.

1 A. Yes.

2 Q. And that other officers didn't want to ride with
3 him.

4 A. Yes.

5 Q. Did you happen to speak with any of the
6 investigators following this accident? I mean --

7 A. No.

8 Q. Did you see anyone inspecting the vehicles,
9 anything like that?

10 A. Calvin. I don't know what his first name is.

11 Q. Carl Colm (phonetic)?

12 A. Calvin, they call him. He's over in the municipal
13 garage. I forgot about that.

14 Q. What's his name?

15 A. Calvin, yes.

16 Q. He's a garage employee?

17 A. Yes, he is.

18 Q. What did he -- what was his involvement?

19 A. I heard he was -- because he's one of the
20 mechanics. He wasn't allowed to inspect the car or the
21 truck because -- I guess he's related to my cousin. His
22 sister married my cousin, which is his sister. Or somehow
23 he's related to me.

24 MR. CAREY: You lost me.

25 A. I forgot about it. I don't want to get in

1 trouble.

2 Q. So these two vehicles were impounded at the
3 municipal garage for some period of time?

4 A. I know the truck was for sure.

5 Q. You saw the cruiser there as well?

6 A. I think I saw the cruiser. I'm almost positive
7 the cruiser was there.

8 Q. And only certain individuals were allowed to
9 inspect the vehicles?

10 A. Well, I know that Calvin wasn't allowed because he
11 was related somehow. But I don't know who inspected it. I
12 know they were having some investigators come down and have
13 them take a look at the truck. I just went over just to
14 more or less be nosey to see how bad the truck was.

15 Q. Is that the first time you ever saw a damaged
16 police cruiser at the municipal garage?

17 A. No.

18 Q. How many times before that could you estimate
19 you've seen that occur? Is that -- first of all, is that
20 where they go, typically?

21 A. I don't know if they go there. I know some come
22 there. I don't know if they have other places where they
23 take them. But I did see other cruisers damaged. I
24 couldn't tell you how many.

25 Q. Okay. Anyone ever share information with you

1 about how that came to be, how Erie police cruisers got
2 damaged?

3 A. No.

4 MR. CAREY: You don't mean this cruiser, you mean
5 just in general?

6 Q. Others.

7 A. No.

8 Q. Did you ever hear about prior motor vehicle
9 accidents with police officers involving police cruisers,
10 did you ever hear about that at work?

11 A. No.

12 Q. What do you do at the streets department?

13 A. Heavy equipment operator.

14 Q. All right. So like backhoes and things like that?

15 A. Backhoes, and run the roller, highlifts, dozer,
16 paving machine.

17 Q. So if they're paving streets or ripping up
18 streets, that kind of thing, you're involved in that.

19 A. Yes. Snow plowing.

20 Q. So you don't have personal involvement in the
21 maintenance or repair of police cruisers?

22 A. No. They take care of that across the street --
23 or across the parking lot at the municipal garage. As far
24 as I know, they do that, repair them over there.

25 Q. Has anyone from the City of Erie other than Mr.

1 Carey's call to you last week contacted you about any
2 knowledge you may have about Mr. DiLoreto, Jennifer George,
3 or anything about this case?

4 A. No.

5 Q. All right. What did you discuss with Mr. Carey,
6 anything?

7 A. He just basically asked me some of the same
8 questions that he asked me today. Asked how I heard about
9 it, and if I knew Mr. DiLoreto.

10 Q. All right.

11 A. Stuff like that. Basically, it was almost the
12 same thing he asked me today.

13 Q. All right. Has any investigator from the police
14 department or its -- or the City's insurance company ever
15 contacted you?

16 A. No.

17 MR. NATALIE: That's all I have.

18 MR. CAREY: I don't have anything further.

19 MR. HABER: No

20 MR. CAREY: You're done.

21 THE WITNESS: Okay.

22 MR. CAREY: She is going to prepare a transcript
23 from your testimony today. And you have the right
24 to review it and make any corrections you think
25 are appropriate. You can also waive that right

1 and just let her prepare it. It's your choice.

2 THE WITNESS: Well, I got nothing to hide, so as
3 long as it's everything we talked about.

4 MR. CAREY: It's going to be every word.

5 THE WITNESS: Okay.

6 MR. CAREY: You waive your right to review it?

7 THE WITNESS: No, can I review it? I would
8 like --

9 MR. CAREY: If you want -- that's up to you.

10 THE WITNESS: I'll take a look at it.

11 MR. CAREY: Do we have your address here?

12 THE WITNESS: 2814 Tuttle Avenue.

13 MR. CAREY: What's the Zip?

14 THE WITNESS: 16504.

15

16 (Deposition concluded at 1:21 p.m.)

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C E R T I F I C A T I O N

I, Carol A. Holdnack, a Court Reporter and
Notary Public in and for the Commonwealth of
Pennsylvania, do hereby certify that the foregoing
is a true and accurate transcript of my
stenographic notes in the above-captioned matter.

Carol A. Holdnack

Registered Professional Reporter

Dated: 11-23-04

Carol A. Holdnack, Notary Public
Erie, Erie County
Notary Public, Expires Jan. 2, 2007

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF PENNSYLVANIA

3 JENNIFER RAE GEORGE, an : Civil Action - Law
4 incapacitated person, by :
5 RAYMOND G. GEORGE and :
6 SUSAN M. GEORGE, Guardians, :
7 Plaintiffs :
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v. : Case No. 04-77E

7 CITY OF ERIE, JOYCE :
8 SAVACCHIO, PAUL DEDIONISIO, :
9 RICHARD SZYCHOWSKI, DAVID :
10 VAN BUSKIRK, RICHARD :
11 CRAWFORD, PATRICK DURKIN, :
12 GREGORY T. DILORETO and :
13 JOHN DOE, :
14 Defendants :
15 :
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12 Deposition of DONALD MAROFSKY, taken before and
13 by Carol A. Holdnack, RPR, Notary Public in and for
14 the Commonwealth of Pennsylvania, on Tuesday,
15 November 9, 2004, commencing at 1:21 p.m., at the
16 offices of Marshall Dennehey Warner Coleman & Goggin,
17 Renaissance Centre, 1001 State Street, Suite 1400,
18 Erie, PA 16501.

16 For the Plaintiffs:
17 Alan Natalie, Esquire
18 504 State Street, Suite 300
19 Erie, PA 16501

18 For Defendant City of Erie:
19 Patrick M. Carey, Esquire
20 Marshall Dennehey Warner Coleman & Goggin
21 1001 State Street, Suite 1400
22 Erie, PA 16501

21 For Defendant Gregory T. DiLoreto:
22 David L. Haber, Esquire
23 Weinheimer Schadel & Haber
24 602 Law & Finance Building
25 429 Fourth Avenue
Pittsburgh, PA 15219

25 Reported by Carol A. Holdnack, RPR
Ferguson & Holdnack Reporting, Inc.

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I N D E X

DONALD MAROFSKY

Direct Examination by Mr. Carey 3

Cross-Examination by Mr. Haber 15

Cross-Examination by Mr. Natalie 20

1 D O N A L D M A R O F S K Y, first having
2 been duly sworn, testified as follows:

3

4

DIRECT EXAMINATION

5

BY MR. CAREY:

6

7

Q. Could you state your name, please.

8

A. Donald Marofsky.

9

Q. Could you please spell your last name.

10

A. M-A-R-O-F-S-K-Y.

11

Q. I butchered it in my notice to you, didn't I?

12

A. Um-hum.

13

Q. Sorry about that.

14

A. I said, well, this isn't me, I don't know who

15

they're talking about.

16

Q. Thanks for showing up even though I wrote somebody

17

else's name down. You and I met last week. And I told you

18

at that time that I represent the City of Erie in a lawsuit

19

that was brought on behalf of Jennifer George against the

20

City and against Officer Greg DiLoreto. This is the time

21

for your deposition. Have you ever had your deposition

22

taken before?

23

A. No, I can't think of.

24

Q. It's not much different that when you and I talked

25

except that there are other attorneys here. I think we're

1 dressed a little better than I was last week. And we have a
2 court reporter who is going to take down everything. We're
3 basically going to ask you questions about yourself and
4 about any information you may have about this case. And if
5 you have answers, you can provide them to us.

6 You are under oath like you would be in court if
7 you were testifying. And the court reporter will take
8 everything down. She will then prepare a transcript, a book
9 of all the questions and answers.

10 Because she is going to prepare a booklet, there
11 are some ground rules we have to follow. First of all,
12 please make all of your responses verbal. Instead of saying
13 um-hum or nodding your head or shrugging your shoulders, say
14 yes or no. And also, too, if you'll wait until I'm done
15 asking my questions before you answer it, I'll wait until
16 you're done answering before I ask the next question. Okay?

17 A. Yes.

18 Q. Where do you live?

19 A. 231 East Front, Erie, Pennsylvania.

20 Q. Where do you work?

21 A. City of Erie streets department.

22 Q. And how long have you worked there?

23 A. 31 years.

24 Q. What do you do for them?

25 A. Truck driver, shift crew worker. And emergency

1 things that come up.

2 Q. And how old are you?

3 A. 55.

4 Q. And how far did you go in school?

5 A. Ninth grade.

6 Q. Do you know Jennifer George?

7 A. Yes.

8 Q. How do you know her?

9 A. I know her through her family and just in the
10 neighborhood growing up with my daughter, known her all her
11 life just about.

12 Q. Did you become aware of the accident that she was
13 involved in over at East 14th and Parade Street?

14 A. Yes, I did.

15 Q. How did you become aware of that?

16 A. On the news.

17 Q. Okay. And after you became aware of this
18 accident, did you go see Jennifer or did you have any
19 contact with her parents?

20 A. I did. Not right after. You know, I did
21 afterwards, but not right after.

22 Q. Okay. Do you know Greg DiLoreto or did you know
23 Greg DiLoreto?

24 A. I known him from just coming into work, getting
25 gas and stuff for his vehicle. He would gas his vehicle up.

1 Q. And he would come in, in a police car?

2 A. Yes.

3 Q. Did you know him outside of -- let me ask you
4 this. When he would come in to get gas, was that at the
5 streets department?

6 A. Yes.

7 Q. Did he ever come in with a cruiser to have
8 anything else done, other than to get gas?

9 A. Maybe flat tires on occasion. Check the oil,
10 which we normally do. And stuff like that.

11 Q. Okay.

12 A. Come in and clean his windows and stuff.

13 Q. So it was minor maintenance.

14 A. Right.

15 Q. Did you know Greg DiLoreto outside of the streets
16 department building where he would bring his cruiser in?

17 A. Did I know him outside of the building, no.

18 Q. Did you ever see him drive the cruiser?

19 A. Yeah. Yes, I have.

20 Q. Did you ever see him drive the cruiser outside of
21 the streets department property?

22 A. When he would leave the garage on occasion, yeah.

23 Q. Okay. Can you tell me, did you observe anything
24 that stuck in your memory about the way he drove?

25 A. Yes. There was times -- now, I'm not saying every

1 time. But there was times when he did come in, very
2 erratically driving, fast up to the pumps, leaving,
3 squealing tires at times. When he would turn out into the
4 main street off of our garage, you can hear him squealing
5 the tires. At times, not every time, but a lot of times he
6 would squeal them going up the street.

7 Q. Do you recall him specifically doing this, as
8 opposed to other people, other officers?

9 A. No, him. Because he would do it on occasions
10 where it wasn't just maybe once or twice, to say, well,
11 that's Greg, you know.

12 Q. Did you ever say anything to him about that?

13 A. No.

14 Q. Would you in your position have any right to say
15 anything to him?

16 A. No. Because I'm not his superior or nothing like
17 that, so I can't tell him how to operate his vehicle.

18 Q. Did you ever contact anybody at the Erie police
19 department to complain about the way he drove his vehicle?

20 A. No, I haven't. But at times other officers -- I
21 can't remember who their names are. But they would comment
22 on his driving too, also, that it was very dangerous. A lot
23 of officers wouldn't want to drive with him. They would go
24 in and ask not to go with him that evening because of his
25 driving. Now, this is what they would tell me.

1 Q. Do you recall who any of those officers were?

2 A. No, I don't know their names. Like I said, they
3 just come in and out, by face. Like I say, it was a while
4 ago, so I really can't remember names.

5 Q. On the streets department property where DiLoreto
6 and the other officers would bring their vehicles for flat
7 tires, or clean windows, or get gas, or whatever, isn't
8 there a -- didn't you tell me that there are a lot of -- not
9 a lot. That there are substances down on the road surface
10 such as motor oil and things?

11 A. Sometimes there are spots there, as I told you.
12 But when there is, we put like a drywall -- a dry-all on it
13 to absorb it. But sometimes if there is, if he was to take
14 off. But I'm talking 15, 20 feet of peeling tire -- or to
15 where it wouldn't matter for a spot. To I would say it
16 would be dangerous or erratical for him to be driving like
17 that.

18 When I talked to you, I just -- I wanted to think
19 about just what I did know and remembered about it. I
20 really don't want to say nothing at the time. I thought
21 about it a couple days, and I remember occasions where he
22 did do that. And another occasion I remember, even after
23 the accident happened, I remember clear in my mind. He was
24 in the garage, cleaning his windows the one time. And
25 inside of our garage, we're in the office, and we hear

1 somebody peeling out. Out of our garage, out through the
2 doorways, and down through our street. And my mind was
3 saying, this accident happened, and he's still driving like
4 this. I mean, it just didn't seem right to me. I would be
5 afraid to -- you know, even if that accident or whatever.
6 Inside of our building. And there was other workers working
7 at the time when that happened too.

8 Q. Did you see him do that?

9 A. You could hear him doing it and you could see him
10 coming out the door, from our window. Then when I did go
11 out into the garage to look, there was double skid marks
12 where he did take off fast and peeled out.

13 Q. Did you or anyone else contact the City of Erie
14 and report that behavior to them?

15 A. No, we didn't.

16 Q. How many times before this accident occurred did
17 you see Greg DiLoreto drive in that manner, peeling out?

18 A. I would say maybe -- geez, I would say at least
19 four or five times. Because it was like a -- not a steady
20 time that he would do it. But on occasion to where you
21 could remember him doing, to where -- police cruiser doing
22 that, it's kind of weird to see that and hear it.

23 Q. Can you identify -- let me ask you this. This
24 accident occurs. And when is it that you find out that Greg
25 DiLoreto is involved in this accident?

1 A. I believe when it was on the news. When they did
2 announce it on the news. I don't know what day. If it was
3 the morning after they said his name. Or, you know, it was
4 probably shortly after the accident that we did find out it
5 was Greg.

6 Q. Did you have conversations with anyone at the
7 streets department after you heard about this accident,
8 about DiLoreto and his driving habits?

9 A. Yeah. A lot of guys have talked about it. More
10 or less because they -- from being there working, different
11 guys on my shift crew know about his driving because they
12 also witnessed it, you know, from working there.

13 Q. Can you identify anyone up at the streets
14 department who you've talked to about this?

15 A. No. I mean, just guys, to where you -- even more
16 or less guys on my shift that would be working with me, on
17 the same shift as me, you know. Because like I say, we
18 all -- when there's guys working, there's usually three or
19 so, four guys working at a time. So where I wouldn't just
20 more or less hear or see this, other guys that I would be
21 working with would too.

22 Q. But you can't, as we sit here today, name names as
23 to who you would have talked to about this?

24 A. David Stafford, Eric Popovich would -- on my shift
25 with me a lot. Which I know they've witnessed it, him

1 coming in at times doing that also.

2 Q. You cannot name names of anyone at the Erie police
3 department who has commented about his driving?

4 A. No, I don't know their names. But I know there's
5 at least three or four of them that did talk about -- say,
6 well, you know, about his erratical driving.

7 Q. Do you recall when we talked last week? I think
8 it was maybe Wednesday or Thursday of last week.

9 A. Yeah.

10 Q. And I asked you basically the same questions at
11 that time, didn't I? You have to answer.

12 A. Yes. I'm sorry.

13 Q. And at that time, do you recall telling me that
14 you could not recall ever seeing DiLoreto drive recklessly
15 at the city garage other than maybe squeal tires or drive a
16 little fast in the parking lot?

17 A. That's what I'm talking about as far as -- now,
18 recklessly, when he would take off, he would squeal his
19 tires. Now, if you want to call that reckless driving or
20 unsafe driving, whatever it would be. But he would take off
21 squealing his tires to a length of spot where he would
22 squeal them to where it wouldn't just be a little chirp. I
23 mean, he would really be on that acceleration.

24 Q. Did you tell me that when we met before, that he
25 would squeal tires down the street 20 feet of skid marks?

1 A. No, because I didn't -- down the street, I don't
2 know how many feet of skid marks. But you can hear the
3 tires skidding down the street. When I talked to you, I
4 didn't want to really say anything that I wasn't sure of.
5 So I thought -- made everything -- because you told me I was
6 going to be here. I wanted to make sure that I thought it
7 over and I knew just what I'm telling you is the truth, and
8 I'm not making nothing up or getting into something where
9 it's not exactly right what I'm telling you.

10 Q. Were you able when we met last week to give me the
11 names of David Stafford or Eric Popovich as being other
12 individuals at the streets department that you spoke with?

13 A. No. Because like I say, I did speak with other
14 people in the streets department, but those are the people
15 that would be on my shift that could probably also back up
16 saying what I'm saying about the way he used to come in and
17 out of there driving. And I believe those two were working
18 with me the day that he did peel out of that garage after
19 the accident did happen.

20 Q. All right. So these two individuals you think may
21 have been present during one of these episodes.

22 A. Yes.

23 Q. You don't know precisely whether they witnessed
24 anything. Is that true?

25 A. No, but I believe, because we were all working

1 that day, I'm pretty sure.

2 Q. These two individuals, did you ever discuss this
3 with them?

4 A. As far as the accident and stuff like that, yeah,
5 because everybody around the garage did.

6 Q. Did you ever discuss with these two individuals
7 DiLoreto's driving habits?

8 A. Yeah. We all talked about it. I mean, he was
9 well-known for that.

10 Q. Well-known amongst the city streets department?

11 A. Right, guys who would be in contact with him at
12 work.

13 Q. Is it fair to say he was well-known amongst the
14 street department workers because when he left the streets
15 department lot he would spin tires?

16 A. That. And, again, what other officers would tell
17 us when we talked a little bit, about his driving habits on
18 the road.

19 Q. One last question. Did you tell me when we met
20 last week -- you basically explained to me that the parking
21 lot is slippery because of motor oil, and that the police
22 cars are powerful cars with powerful engines, and that may
23 be why he was spinning?

24 A. But -- now, let me explain the whole parking lot
25 isn't that like. It would be just the area where we would

1 get our gas and check the oil. There might be a spot like
2 transmission fluid or oil that would be in that little area.
3 I would say maybe about 2 or 3-foot area there. But I'm
4 saying as far as him driving erratical, he would go beyond
5 that, and other spots in the parking lot where he would gun
6 that motor and peal out a little bit.

7 Q. Have you ever talked to Attorney Natalie about
8 this?

9 A. No, hum-um.

10 Q. How about any investigator that was hired --
11 identified themselves as being hired by anybody involved in
12 this case?

13 A. No.

14 Q. Did you ever speak to any of the police
15 investigators who were looking into the cause of this
16 accident?

17 A. No.

18 Q. And this may be somewhat repetitive of a couple
19 other questions that I asked. But am I correct that you
20 never went to the police who were investigating this
21 accident to tell them that DiLoreto was known by you and
22 other people at the streets department to peal out and drive
23 recklessly?

24 A. No, I never went to anybody on it. Nobody ever
25 approached me either.

1 Q. Did you ever see Greg DiLoreto do any doughnuts?

2 A. As far as doughnuts, let me think. Not a
3 doughnut, but like a sway in the car where it would fishtail
4 out when he would take off.

5 Q. When he peeled out, the back end would get a
6 little bit loose?

7 A. Right, fishtail.

8 Q. When was the last time that you spoke to Susan or
9 Ray George?

10 A. Gee, I speak to her on occasion at work where I
11 see her. As far as speaking to her, hello, and how you
12 doing.

13 Q. When was the last time?

14 A. That's even been a while ago. I would say maybe a
15 couple months. A couple months.

16 MR. CAREY: Okay. Your witness.

17

18 CROSS-EXAMINATION

19 BY MR. HABER:

20

21 Q. Mr. Marofsky, my name is David Haber, and I
22 represent Officer DiLoreto. You indicated you saw four or
23 five times Officer DiLoreto come into this place fast or
24 peel out fast.

25 A. Right.

1 Q. Over how long of a period of time are you talking
2 about?

3 A. That would be -- well, in between incidents?

4 Q. No, no. I mean --

5 A. How long of a period of time since I've known him
6 coming in?

7 Q. Yeah.

8 A. I would say -- well, maybe four/five years,
9 whatever. It's been a long time.

10 Q. So we're talking maybe one time a year you would
11 see him do it.

12 A. No, no. Be more than one time a year. But as far
13 as remembering in my mind to where -- because I don't know
14 how many years he has on the force or how long he's been
15 coming up there. But it wasn't, say, maybe once a year this
16 would happen, or maybe even twice. It would be, you know,
17 on occasion to where it would -- you know. I wouldn't say
18 not every single time, but a lot of times when he did come
19 in, it would be the same manner.

20 Q. Well, he would bring the police cruiser up there
21 almost every time he was out on patrol, right?

22 A. Right.

23 Q. If you worked four or five times a week, that
24 maybe four or five times a week he would bring it up.

25 A. But, also, I work a second shift. Okay. And the

1 policemen rotate shifts. So there's times where I won't see
2 him for a month or so.

3 Q. I understand that. I'm just trying to get out the
4 times that you saw him over a period of time. I'm not
5 saying you saw him every time he came into the garage.
6 Obviously, you wouldn't be there every time.

7 A. Right. But I'm just saying, as far as him working
8 different shifts, I wouldn't see him for a month or so.

9 Q. I understand that. I'm just trying to figure out
10 how many times you saw him over what period of time.

11 A. Right. How many times total, I would say I seen
12 him do this?

13 Q. Yeah.

14 A. I don't know exactly, but I would say quite a few.

15 Q. Well --

16 A. I mean, I'm not going to say maybe 50 or 100
17 times. I would say maybe 15 to 20 times as far as all the
18 times that I've known him coming in, that -- to where he
19 would leave fast or come in fast.

20 Q. But not every time.

21 A. Not every time, no, not every time.

22 Q. And, generally, he was the only one in the police
23 vehicle, right?

24 A. No, there's other times where he had people with
25 him.

1 Q. He had another officer.

2 A. Right. Go ahead.

3 Q. Now, go back to my original question. Over what
4 period of time are we're talking about? You know, are we
5 talking two years, three years, four years, prior to the
6 accident?

7 A. Okay. I would say maybe three years that I can
8 remember.

9 Q. Okay.

10 A. Off and on.

11 Q. Okay. You listed the names of David Stafford and
12 Eric Popovich.

13 A. Right.

14 Q. To my understanding, did they witness -- you
15 believe they witnessed when he pulled out of the garage
16 after the accident?

17 A. Yeah. I believe that they were working with me.
18 And we were in the office. And we did hear the squealing of
19 the tires and him coming out of the garage.

20 Q. Do you know if those individuals ever witnessed
21 him pulling into the pumps fast or pulling out fast?

22 A. Yes, I would. They would more or less have to
23 because I would -- I'm in the same working position they
24 are. And if they did see him, they -- you know, they
25 would -- if he did do it, let's say, they would see him

1 doing it.

2 Q. If he did it when they were working.

3 A. Right.

4 Q. They didn't work always the same time you did, did
5 they?

6 A. Normally, we have the same days. There's a few
7 days off in a week that we staggered, we have days off from
8 each other.

9 Q. But there are times that they worked that you
10 don't work, and visa versa.

11 A. Right, that would be weekends.

12 Q. Okay. Did he ever have an accident when he was
13 peeling in or pulling in?

14 A. No. Not that I know of, no.

15 Q. So what you basically saw was driving fast.

16 A. Driving fast and -- right.

17 Q. Who is your supervisor at the garage?

18 A. Well, we have different -- our bureau chief is
19 Pete Petrianni. We have four or five different supervisors.

20 Q. Did you ever talk to any of your supervisors about
21 Officer DiLoreto?

22 A. No.

23 Q. Okay. And while he was doing what you described,
24 did he ever damage any City of Erie property?

25 A. No.

1 MR. HABER: I have no further questions.

2

3

CROSS-EXAMINATION

4 BY MR. NATALIE:

5

6 Q. Mr. Marofsky, I just met you today; is that
7 correct?

8 A. Right.

9 Q. Alan Natalie. I represent Susan and Ray George on
10 behalf of their daughter Jennifer. You mention that rank
11 and file officers -- I don't want to characterize your
12 testimony. You said other officers other than Officer
13 DiLoreto would express things to streets department
14 employees including yourself; is that correct?

15 A. Yes.

16 Q. And those included that they did not want to ride
17 with Mr. DiLoreto because of his driving?

18 A. Yes, you're right. They said they would go in and
19 talk to their supervisors about it. This is what they would
20 tell us.

21 Q. This was my next question. I think you said they
22 would ask not to drive with him. Am I to assume that that
23 meant, or they were relating to you, asking their superiors
24 relief from driving with Mr. DiLoreto?

25 A. Riding with him, right.

1 Q. And this -- this is what they told you, that they
2 would go in and tell their supervisors not to -- or ask
3 their supervisors --

4 A. Right.

5 Q. -- not to drive with Mr. DiLoreto because of his
6 dangerous driving habits?

7 A. Right.

8 Q. Did they ever use any slang term or nickname for
9 Mr. DiLoreto?

10 A. Well, they used to call him NASCAR. I don't know
11 why, if he liked NASCAR driving, or if it was the way he
12 drove, I don't really know. But guys around the garage used
13 to call him NASCAR.

14 Q. How about rank and file police officers, did they
15 also share that nickname?

16 A. That, I couldn't tell you.

17 Q. Did these officers ever share specific experiences
18 with Mr. DiLoreto out on the street with you or other people
19 you worked with?

20 A. There was one occasion. I don't know who the
21 officer's name was. But he did mention that he had a call
22 with him, and they had a call down on the lower east side, I
23 believe it was. And they was up on the upper west side.
24 And the way that he drove down there really scared this
25 officer pretty good. And he said something about making it

1 down there in record time, to where he couldn't believe they
2 were down at this call in that amount of time, in the way
3 that he was driving down there. Which it did scare him, of
4 the way Officer DiLoreto was driving down there. I don't
5 know who. I could see faces, but I don't know names to
6 where --

7 Q. Was this one of those officers who shared their
8 concern about riding with Mr. DiLoreto?

9 A. I don't know.

10 Q. Just one of those examples.

11 A. Right.

12 Q. Is it safe to say you really can't give us an
13 exact estimate or exact number of times you saw Mr. DiLoreto
14 behave the way you described --

15 A. No.

16 Q. Let me finish my question. Just that you saw it
17 occasionally, not every time, but occasionally throughout
18 the three year-period that he -- that you saw him at the
19 garage.

20 A. Right. I can't tell you how many times, but it
21 would be times to where it would be -- well, that's -- you
22 know him, that's the way he was going to drive, that's the
23 way -- that's -- you knew that was him peeling out. To
24 where it come -- I'm not saying used to it, but you would
25 know --

1 Q. Would you characterize that as a habit of his?

2 MR. HABER: Object to the form of the question.

3 Q. Was it something he did that was consistent with
4 him? You mentioned, well, that's Greg. Is that what you
5 mean by that?

6 A. Yes.

7 Q. Is that how you would define him?

8 A. Correct. That would be his normal or type of
9 driving when he did come in most of the time.

10 Q. Was that type of driving consistent with what he
11 did in the garage after the accident?

12 A. Yes.

13 Q. All right. And you also heard him do this --
14 conduct this driving behavior out on the street when leaving
15 the garage; is that correct?

16 A. Yes. A couple times I can remember that he did
17 peal out leaving the garage onto French Street.

18 Q. So that would be out on a public roadway?

19 A. Yes.

20 Q. Whereas the garage is city property?

21 A. Right.

22 Q. And the concerns expressed by the officers, would
23 these be with Mr. DiLoreto's driving out in the community or
24 in the garage only?

25 A. Out in the community, on the streets.

1 MR. NATALIE: I have nothing further.

2 MR. CAREY: You have the right to review this
3 transcript. She'll prepare it, and she can send
4 it to you, and you can read it and make any
5 corrections. You can also give up that right and
6 just allow her to prepare the transcript if you
7 want. It's your choice.

8 THE WITNESS: I'll give up that right. Everything
9 I said was true and honest that I can remember.

10 MR. CAREY: You're all done.

11

12 (Deposition concluded at 1:49 p.m.)

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C E R T I F I C A T I O N

I, Carol A. Holdnack, a Court Reporter and
Notary Public in and for the Commonwealth of
Pennsylvania, do hereby certify that the foregoing
is a true and accurate transcript of my
stenographic notes in the above-captioned matter.

Carol A. Holdnack

Registered Professional Reporter

Dated: 11-23-04

NOTARIAL SEAL
Carol A. Holdnack, Notary Public
Erie, Erie County
My Commission Expires Jan. 21, 2010